

SUBSTANDARD, DILAPIDATED AND UNSAFE BUILDING ORDINANCE AN ORDINANCE DESIGNATING CERTAIN DEFINED BUILDINGS TO BE SUBSTANDARD, UNSAFE OR DANGEROUS AND DECLARED A NUISANCE; PRESCRIBING A METHOD TO NOTIFY AND ORDER REPAIR, VACATE AND DEMOLISH THOSE BUILDINGS; REPEALING ORDINANCE NO. 158 AND ALL OTHER ORDINANCES IN CONFLICT HERewith PREVIOUSLY ADOPTED BY THIS COUNCIL; AND ESTABLISHING A PENALTY FOR VIOLATION OF THE CONDITIONS OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TIOGA, TEXAS:
SECTION I. PURPOSE AND SCOPE

(a) PURPOSE: It is the purpose of this chapter to provide a just, equitable and practical method, to be cumulative with and in addition to any other remedy provided by the Building Code, Chapter 214 of the Local Government Code, or otherwise available at law, whereby buildings, as defined herein, which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants maybe required to be repaired, vacated, demolished, removed or secured. The purpose of this chapter is also to provide minimum standards for the continued use and occupancy of all structures to safeguard life, limb, health, property and public welfare.

(b) SCOPE: The provisions of this chapter shall apply to all buildings which are hereinafter defined as dangerous or substandard buildings whether now in existence or whether they may hereafter become dangerous.

SECTION II. DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Building: Any building, fence, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever and the enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

City Council: The City Council of the City of Tioga, Texas.

Building Code: The Standard Building Code promulgated by the International Building Code Council, Inc., as adopted and amended by the city.

Electric Code: The National Electrical Code of the National Fire Protection Association, as adopted and amended by the city.

Fire Code: The Standard Fire Code promulgated by the International Building Code Congress International, Inc., as adopted and amended by the city.

Mechanical Code: The Standard Mechanical Code as published by the International Building Code Congress International, Inc., as adopted and amended by the city.

Plumbing Code: The Standard Plumbing Code as published by the International Building Code Congress International, Inc., as adopted and amended by the city.

SECTION III. ENFORCEMENT

(a) GENERAL.

(1) Administration: The Building Official is hereby authorized to enforce the provisions of this chapter. The Building Official shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this chapter.

(2) Inspections: The Building Official and the fire marshal or their designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter.

(3) Right of entry: When it is necessary to make an inspection to enforce the provisions of this chapter, or when the Building Official or his designee has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building or premises unsafe, dangerous, or hazardous, the Building Official or his designee may enter the building or premises at reasonable times to inspect or perform the duties imposed by this chapter, provided that, if such building or premises be occupied, credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official or the Building Official's designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

(b) ABATEMENT OF DANGEROUS OR SUBSTANDARD BUILDINGS: All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous or substandard as defined by this chapter are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this chapter.

(c) UNLAWFUL TO VIOLATE CHAPTER: It shall be unlawful for any person, firm or corporation to erect, construct, or use, occupy or maintain any building or cause or permit the same to be done in violation of this chapter.

(d) INSPECTION AUTHORIZED: All buildings within the scope of this chapter and all construction or work for which a permit is required shall be subject to inspection by the Building Official.

SECTION IV. SUBSTANDARD BUILDINGS DECLARED

For the purposes of this chapter, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to the extent that the life, limb, health, property, safety, or welfare of

the public or occupants thereof are endangered shall be deemed to be a substandard building:

(a) Any building that is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare.

(b) Any building that, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.

(c) Any building that is boarded up, fenced or otherwise secured in any manner if either of the following apply:

1) The building constitutes a danger to the public even though secured from entry; or

(2) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by division (b) of this section.

(d) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(e) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as not to provide safe and adequate means of exit in case of fire or panic.

(f) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.

(g) Whenever any portion thereof has been damaged by fire, earthquake, wind, and flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.

(h) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(i) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

(j) Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(k) Whenever the building, or any portion thereof, is likely to collapse partially or completely because of any of the following:

(1) Dilapidation, deterioration or decay;

(2) Faulty construction;

(3) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;

(4) The deterioration, decay or inadequacy of its foundation; or

(5) Any other cause.

(l) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(m) Whenever, the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

(n) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(o) Whenever the building has been so damaged by fire, wind, earthquake, flood or other causes, or has become so dilapidated or deteriorated as to become either;

(1) An attractive nuisance to children; or

(2) A harbor for vagrants, criminals or immoral persons.

(p) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building regulations of this city, as specified in the Building Code, or of any law or ordinance of this state or city relating to the condition, location or structure of buildings.

(q) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 60 percent of the

(1) strength,

(2) fire-resisting qualities or characteristics, or

(3) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(r) Whenever a building, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Building Inspector to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, the following:

(1) Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house;

(2) Lack of, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel;

(3) Lack of, or improper kitchen sink in a dwelling unit;

(4) Lack of hot and cold running water to plumbing fixtures in a hotel;

(5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit or lodging house;

(6) Lack of adequate heating facilities;

(7) Lack of, or improper operation of, required ventilating equipment;

(8) Lack of minimum amounts of natural light and ventilation required by this code;

(9) Room and space dimensions less than required by this code and the Building Code;

(10) Lack of required electrical lighting;

(11) Dampness of habitable rooms;

(12) Infestation of insects, vermin or rodents;

(13) General dilapidation or improper maintenance;

(14) Lack of connection to required sewage disposal system;

(15) Lack of adequate garbage and rubbish storage and removal facilities.

(s) Whenever any building, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exists, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal to be a fire hazard.

(t) Whenever any building is in such a condition as to make a public nuisance known to the common law or in equity jurisprudence.

(u) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(v) Whenever any building is abandoned so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

(w) Any building constructed and still existing in violation of any provision of the Building Code, Fire Code, Plumbing Code, Mechanical Code, or Electrical Code to the extent that the life, health or safety of at the public or any occupant is endangered.

SECTION V. DETERMINATION BY BUILDING INSPECTOR

When the Building Official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the Building Official may take any or all of the following actions, as the Building Official deems appropriate:

(a) Issue notice to the record owner that the building is substandard and must be repaired or demolished;

(b) Issue citation(s) for violations(s) of this chapter;

(c) Secure the building if permitted; Section 12(a)

(d) Recommend to the City Council that abatement proceedings be commenced pursuant to Section VI.

SECTION VI. PUBLIC HEARING FOR ABATEMENT OF SUBSTANDARD BUILDINGS

(a) Commencement of proceedings: When the Building Official has found and determined that a building is a substandard building; the Building Official shall commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(b) Public hearing to be held: Except when the City Council finds that a building is likely to immediately endanger persons or property, a public hearing before the City Council shall be held to determine whether a building complies with the standards set out in Section IV. If the City Council determines that the building constitutes an immediate danger, the procedures set forth in Section VII shall be followed.

(c) Notice: Not less than ten days prior to the date for which the hearing is set, the Building Inspector shall issue a notice of the public hearing directed to the record owner of the building, and to all mortgagees and lien holders. The city shall use best efforts to determine the identity and address of any owner, lien holder or mortgagee of the building through the records of the county clerk in the county in which the building is located and through any other source available to the city. The notice shall contain all of the following:

- (1) The name and address of the record owner;
 - (2) The street address or legal description sufficient for identification of the premises upon which the building is located;
 - (3) A statement that the Building Official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of Section IV;
 - (4) A statement that the owner, lien holder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the chapter, and the time it will take reasonable to perform the work;
 - (5) Notice of the time and place of the public hearing; and
 - (6) A statement that if the building is found to be in violation of this chapter, the City Council may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.
- (d) Additional notice of public hearing: Prior to the public hearing, the city may file a copy of the notice mailed pursuant to division (c) of this section in the official or public records of real property in the county in which the property is located. If such notice is not filed of record, each identified mortgagee and lien holder must be notified of any abatement order issued by the city at the public hearing, prior to any remedial action by the city.
- (e) Burden of proof: At the public hearing, the owner, lien holder or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with this chapter, and the time it will take reasonably to perform the work.
- (f) Conduct of public hearing: At the public hearing, the owner of the building and all other interested persons may make their appearance and be heard. Any evidence may be received and considered by the City Council. The Mayor, or in his absence, any officer designated by rules adopted by the City Council to preside at meetings, shall preside and shall determine all questions of order. The hearing may be adjourned from day to day or continued upon a majority vote of the City Council.

SECTION VII. ORDER OF THE CITY COUNCIL

(a) Findings of the City Council: If the City Council, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in Section IV, the City Council may order that the building be repaired, vacated, removed, demolished, secured, or that the occupants be relocated by the owner, mortgagee or lien holder within a reasonable time as provided herein.

(b) Time allowed to complete work:

(1) The order must require the owner, lien holder or mortgagee of the building to do either or both of the following within 30 days:

- a. Secure the building for unauthorized entry; and/or
- b. Repair, remove or demolish the building unless the owner or lien holder establishes at the hearing that the work cannot reasonably be preformed within 30 days.

(2) If the City Council allows the owner, lien holder or mortgagee more than 30 days to repair, remove or demolish the building, the City Council shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lien holder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the City Council.

(3) The City Council may not allow the owner, lien holder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lien holder or mortgagee does both of the following:

- a. Submits, at the hearing, a detailed plan and time schedule for the work; and
- b. Establishes, at the hearing, that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(4) If the City Council allows the owner, lien holder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the City Council shall require the owner, lien holder or mortgagee regularly to submit progress reports to the Building Official to demonstrate that the owner, lien holder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lien holder or mortgagee appear before the City Council or the Building Official to demonstrate compliance with the time schedules.

(c) Contents of order: The order of the City Council must contain, at minimum, all of the following:

(1) An identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) A description of the violation of minimum standards present in the building;

(3) A description of the ordered actions, including a statement that the owner may repair, if feasible, or demolish or remove at his option;

(4) A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the cost to the property; and

(5) If the City Council has determined that the building will endanger persons or

property, or if the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the property if the ordered action is not taken within the time allowed.

SECTION VIII. NOTICE OF ORDERS OF THE CITY COUNCIL

(a) Order shall be mailed: After the public hearing, the Building Official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lien holder and mortgagee of the building.

(b) Order shall be filed with city secretary: Within ten days after the date that the order is issued by the City Council, the Building Official shall file a copy of the order in the office of the City Secretary.

(c) Order shall be published: Within ten days after the date the order is issued by the City Council, the Building Official shall publish in a newspaper of general circulation within the city a notice stating all of the following:

- (1) The street address or legal description of the property;
- (2) The date the hearing was held;
- (3) A brief statement indicating the results of the order; and
- (4) Instructions stating where a complete copy of the order may be obtained.

SECTION IX. ENFORCEMENT OF ORDERS OF THE CITY COUNCIL

(a) If order not complied with, city may take action: If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense, provided however:

(1) The city may not act to remove or demolish a building until after the City Council has found either of the following:

a. That such defects or conditions exist to the extent that the life, health, property or safety of the public or the occupants of the building are endangered and the building is infeasible to repair; or

b. There is no reasonable probability that the building will be repaired within a reasonable period of time if additional time is given.

(2) The city may only repair a building as provided herein to the extent necessary to correct the conditions which render the building dangerous, and may not act to repair a building unless both of the following apply:

a. The City Council has made a determination that the building is likely to endanger person or property; and

b. The building is a residential dwelling with ten or fewer dwelling units.

(b) Posting of notice to vacate building: If the order requires vacation or if compliance is not had with the order within the time specified therein, the Building Official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested, to the occupant of the building and it shall be posted at or upon each entrance to the building and shall be in substantially the following form:

“SUBSTANDARD BUILDING
DO NOT ENTER
UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building or to remove or deface this notice.

Building Official
City of Tioga”

(c) Remedial action by city: Any repair or demolition work, or securing of the building, shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid over to the person or persons lawfully entitled thereto.

(d) Failure to obey order: Any person to whom an order pursuant to Section VII is directed who fails, neglects or refuses to comply with such order shall be guilty of a misdemeanor and may be prosecuted in municipal court in addition to any other remedies available to the city provided herein.

(e) Interference prohibited: No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated, demolished, removed or secured under the provisions of this chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provision of this chapter, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this chapter.

(f) Permit required: Any work of closure, repair, removal or demolition by the property owner or any lien holder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the City Council shall expire upon expiration of the time for compliance set forth in the order.

SECTION X. PERFORMANCE OF WORK BY THE CITY

(a) Procedure: When any work of repair, removal, demolition or securing is to be performed by the city pursuant to the provisions of any order of the City Council, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building

materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(b) Costs: The cost of such work shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof, together with ten percent interest on such amount from the date on which the work is performed.

(c) Repair to minimum standards only: The city may repair the building as its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with minimum standards.

SECTION XI. RECOVERY OF COST OF SECURING, REPAIR, REMOVAL OR DEMOLITION

(a) Itemized account and notice of lien: The Building Official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this chapter. Upon completion of the work, the Building Official shall prepare and file with the City Secretary a sworn account and Notice of Lien containing all of the following information:

(1) The name and address of the owner if that information can be determined with a reasonable effort;

(2) A legal description of the real property on which the building is or was located;

(3) The type of work performed; and

(4) The amount of expenses incurred by the city in performing the work and the balance due.

(b) Notice filed in county records: The City Secretary shall file the Notice of Lien along with a copy of the order of abatement issued by the City Council in the deed records of the county in which the premises are located.

(c) Personal obligation of property owner: The expenses incurred by the city as set forth in the sworn account of the Building Official shall be a personal obligation of the property owner in addition to a priority lien upon the property. The City Attorney may bring an action in any court of proper jurisdiction against the owner or property to recover the costs incurred by the city.

(d) Lien shall be valid and Privileged: Upon filing of the Notice of Lien in the Deed Records of Grayson County, Texas, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens, existing special assessment liens, and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(e) Assessment must be paid: No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.

(f) Release of lien: After the expenses incurred by the city, as set forth in the sworn account of the Building Official, have been fully paid with interest of ten percent per annum from the date the work was performed, the Building Official shall execute a release of lien which shall be filed in the Deed Records of Grayson County, Texas.

SECTION XII. ADDITIONAL AUTHORITY TO SECURE CERTAIN SUBSTANDARD BUILDINGS PRIOR TO PUBLIC HEARING AND TO SECURE, DEMOLISH, REPAIR OR REMOVE CERTAIN DANGEROUS BUILDINGS

(a) Securing of unoccupied substandard buildings: Notwithstanding any other provisions of this chapter the city may secure a building if the Building Official determines that both of the following apply:

- (1) That the building violates the minimum standards set forth in Section IV; and
- (2) That the building is unoccupied or is occupied only by persons who do not have the right of possession to the building.

(b) If building creates immediate danger: Notwithstanding any other provisions of this chapter, if the City Council finds that a building is likely to immediately endanger persons or property the City Council may do either of the following:

- (1) Order the owner of the building, the owner's agent, or the owner or occupant of the property on which the structure is located to repair, remove, or demolish the structure, or the dangerous part of the structure, within a specified time; or
- (2) Repair, remove, or demolish the structure, or the dangerous part of the structure, at the expense of the city, on behalf of the owner of the structure or the owner of the property on which the structure is located, and assess the repair, removal, or demolition expenses on the property on which the structure was located.

(c) Before the 11th day after the date the building is secured pursuant to division

(a) of this section, or action is ordered pursuant to division (b) (1) of this section, or the building is repaired, removed or demolished pursuant to division (b) (2) of this section, the Building Inspector shall do both of the following:

(1) Give notice to the owner by one or more of the following methods:

- a. Personally serving the owner with written notice;
- b. Depositing the notice in the United States mail addressed to the owner at the owner's post office address;
- c. Publishing the notice at least twice within a ten day period in a newspaper of general circulation in the county in which the building is located, if personal service cannot be obtained and the owner's post office address is unknown;

d. Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown.

(2) Give notice to all lien holders and mortgagees by depositing such notice in the United States mail to all lien holders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the county clerk.

(d) The notice required by division (c) of this section must contain all of the following:

(1) An identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) A description of the violation of the minimum standards present in the building;

(3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to division (b) of this section;

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.

(e) The City Council shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to division (a) or (b) of this section, the owner files with the city a written request for a hearing. The hearing shall be conducted within 20 days after the date the request is filed.

(f) If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by Section X.

(g) It shall be unlawful to fail to comply with an order issued pursuant to this section.

SECTION XIII. CIVIL PENALTY

(a) Civil Penalty authorized: In addition to any other enforcement authority provided by law, the City Council may, by order, at an administrative hearing, assess a civil penalty against a property owner as provided for herein for failure to comply with an order issued pursuant to Section VIII.

(b) Showing required: The civil penalty may be assessed if it shown at the administrative hearing that both of the following apply:

(1) The property owner was notified of the contents of the order issued pursuant to Section VII; and

(2) The property owner committed an act in violation of the order or failed to take

an action necessary for compliance with the order.

(c) Amount of penalty: The civil penalty may be assessed in an amount not to exceed \$1000 per day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 per day for each violation.

(d) Notice of administrative hearing: Not less than ten days prior to the date on which the administrative hearing is set, the property owner shall be sent a notice of the hearing by certified mail, return receipt requested. The notice shall contain all of the following:

(1) A copy of the order issued by the City Council pursuant to Section VII,

(2) A statement that the Building Official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order;

(3) A statement that at the administrative hearing the City Council may assess a civil penalty not to exceed \$1000 per day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed \$10 per day for each violation; and

(4) Notice of the time and place of the hearing.

(e) Copy of order filed with district clerk: After the civil penalty is assessed, the City Secretary shall file with the District Clerk of the county in which the property is located a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(f) Enforcement: The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a denial judgment in accordance with the assessed penalty. A civil penalty under this section is final and binding and constitutes prima facie evidence of the penalty in any suit.

SECTION XIV. AUTHORITY NOT LIMITED

Notwithstanding all other provisions of this chapter, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

SECTION XV. PRIORITY OVER STANDARD HOUSING CODE

The procedures established by this chapter for use, occupancy, and abatement of substandard structures shall prevail over those set forth in the International Housing Code.

SECTION XVI. PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined not more than \$2,000 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION XVII. REPEALER

Ordinance No. 158 and any other ordinances or portions of ordinances previously adopted by this Council in conflict herewith are hereby repealed.

PASSED AND APPROVED THIS THE 9th DAY OF OCTOBER, 2006.



STANLEY KEMP, MAYOR

ATTEST:


DONNA CARNEY, CITY SECRETARY